

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES F. CAMPENELLA	:	CIVIL ACTION
CONSTRUCTION CO., INC., et al.	:	
	:	
V.	:	
	:	
GREAT AMERICAN INSURANCE	:	NO. 10-0681
COMPANY OF NEW YORK	:	

ORDER

AND NOW, this 21st day of May, 2010, for the reasons stated in the foregoing Memorandum, it is hereby ORDERED that Defendant's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. No. 3) is GRANTED in part as to the Second Count and DENIED as to the First Count, alleging breach of contract.

In addition, the Court directs counsel to confer promptly with each other concerning the procedure to be followed for the appraisal process as set forth in the insurance policy, and within fourteen (14) days, file a stipulation setting forth an agreed upon procedure or a letter brief, limited to five (5) pages, setting forth each party's position as to what procedure should be followed. The letter should discuss any discovery that either party feels is necessary if there is no agreement as to discovery.

Thereafter, the Court may have a hearing or decide what procedure should be followed.

BY THE COURT:

s/Michael M. Baylson

Michael M. Baylson, U.S.D.J.